

Frequently Asked Questions (FAQ)

Negotiated Rule Making

What is Negotiated Rule Making?

Negotiated Rule Making is one option described in [RCW 34.05.310](#), the Administrative Procedure Act, that state agencies may use to develop new or revised Washington Administrative Code (WAC). In negotiated rule making, the people affected by a state agency's rules try to reach consensus with the agency on the rule content and agree on the process for developing the rules.

Why is the Department of Early Learning (DEL) involved with Negotiated Rule Making?

DEL is required by [RCW 43.215.350](#) to engage in negotiated rule making with the Service Employees International Union Local 925 (SEIU) and other stakeholders on changes to DEL family home child care licensing rules. This process was mandated in law at the same time the Legislature authorized home-based providers to unionize and bargain with the state regarding child care subsidies. DEL's NRM process was developed to be inclusive of community partners, be data-driven (using current research and best practice models from around the nation), and be as comprehensive as possible. In January 2007, DEL and SEIU agreed to form a Negotiated Rule Making Team (NRMT).

What was the primary responsibility of the Negotiated Rule Making Team?

The NRMT was charged to: Review existing state requirements and laws affecting family child care homes; Research national child care health and safety standards; Consider possible alternatives to the current DEL rules; and Recommend comprehensive changes to [WAC 170-296](#).

Who was on the DEL Negotiated Rule Making Team?

The NRMT voting members consisted of up to:

- 11 Child Care Providers and SEIU staff
- 11 DEL field licensors and state office staff
- 2 Other child care providers to give geographic and ethnic balance to the NRMT
- 2 Washington State Child Care Resource and Referral Network representatives
- 1 Parent Advocate (Washington Parents for Safe Child Care)
- 1 Provider Advocate (Care for Providers)

- 5 Parents

In addition non-voting participants included DEL Management staff, a DEL-NRMT coordinator, and an independent professional facilitator. See the [NRMT Roster](#) for current participants.

How did the work of Negotiated Rule Making get done?

The full NRMT met about every two to six weeks from March 2007 through December 2009. The actual research, and other detail work was completed by three sub-teams of the NRMT. These sub-teams represent the three DEL service areas of the state:

- Northwest Service Area (East Puget Sound - King to Whatcom counties)
- Southwest Service Area (Rest of Western Washington and Olympic-Kitsap Peninsulas)
- Eastern Service Area (Eastern Washington)

The NRMT divided the rules into fourteen (14) main topic areas and more than 200 sub-topics, and assigned them to the sub-teams. The sub-teams met in between each full NRMT meeting to research, develop and recommend changes to family child care rules. The sub-teams would present their findings to the large group. The entire NRMT then voted on “in-concept “ recommendations to DEL. Recommendations were forward to a WAC drafting team comprised of a DEL staff member and a SEIU Provider who received rule drafting training. A NRMT Rule Review Committee reviewed the draft rules for clarity and consistency with the law and NRMT recommendations.

To overcome a potential deadlocks, DEL and SEIU, with help from a neutral facilitator, devised a collaborative model for negotiated rule making built on:

- ◆ Focusing on the *Rights of Children* to have safe and healthy child care
- ◆ Creating a set of [Guiding Principles](#) for the negotiated rule making process
- ◆ Rewriting the entire family home child care WAC chapter rather than trying to amend the contentious current rules
- ◆ Adopting a *Protocol* for respectful dialog among NRMT participants
- ◆ Making negotiated rule making participants *accountable* by requiring consistent attendance and establishing a transparent voting process
- ◆ Assuring that NRMT recommendations for the new rule content be *data driven*, based on other states’ experience, or professional standards such as the American Academy of Pediatrics’ *Caring for Our Children* guidebook for child care.

How were recommendations made?

NRMT sub-teams were required to show how they developed their recommendations using a standardized matrix. The matrix included a topic-specific Intent Statement (see below), underlying laws and current DEL rules, research from other state requirements, national best practice standards, possible alternative

changes to the rules, concerns or complicating factors, and finally the sub-team's recommendation to the full NRMT. Topic experts in various fields were consulted, and including some presentations to the full NRMT (infant care, water, septic systems, sanitation, fire safety, diversity, outdoor activities, etc.). Minority views and concerns are also discussed and incorporated into the team's meeting notes.

How did the Negotiated Rule Making Team's work get reported?

Notes from each full NRMT meeting, with the team's rule recommendations, are posted on the DEL Web site at <http://www.del.wa.gov/default.aspx>.

What is the overarching guiding principles of the Negotiated Rule Making Team?

Rules recommended by the team were grounded in the *rights of children* to have safe and healthy family home child care. See the [NRMT Guiding Principles](#) for details.

What is an Intent Statement?

Each of the major rule topic areas was guided by an written Intent Statement created by the NRMT. These statement explain why the rules are needed for that topic and how they serve to protect and nurture children in licensed family home child care settings.

When did the Negotiated Rule Making finish its work?

The NRMT started meeting in March 2007, and completed its in-concept recommendations in December 2009. The NRMT's recommended draft rules will be completed in early 2010.

What is happening with the Negotiated Rule Making Team recommendations?

Through 2010, DEL will:

- Take public input on the NRMT's draft rules
- Review the NRMT's research and in-concept recommendations
- Consider the NRMT recommendations in conjunction with DEL's mission, resources and legal responsibilities
- Prepare and file a formal rule proposal
- Hold public hearings and take written comments on the proposed rules, and
- Complete the other steps required by law to adopt the final WAC.

The four-year time period (2007 through 2010) to develop and adopt the revised family home child care licensing WAC is consistent with the experience of other state agency rules that are complex or are developed with a high level of stakeholder involvement.